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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,272	10/21/2003	Craig McCarthy	7502-PA05	4565
27111	7590	08/08/2005	EXAMINER	
GORDON & REES LLP 101 WEST BROADWAY SUITE 1600 SAN DIEGO, CA 92101			ESTRADA, ANGEL R	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,272

Applicant(s)

MCCARTHY ET AL

Examiner

Angel R. Estrada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/27/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on December 27, 2004 has been considered by the Examiner.

Claim Objections

2. Claim 26 is objected to because of the following informalities:

Claim 26 line 1, change the dependency from "26" to --25--. Appropriate correction is required.

Double Patenting

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-31 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-23 and 25-32 of copending Application No. 10/763,732. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Marks et al (US 3,312,251; hereinafter Mark).

Regarding claim 1, Marks discloses an apparatus for secure routing of a signaling or transmission means (see figure 1) which comprises a first open-sided open-ended elongated channel member (21) through which said means is routed, a first cover (42) for closure of an open side of said first channel member (see figure 1), said first channel member and said first cover in combination forming a hollow first conduit section (see figure 1), a locking device (22) to lock said first cover (42) to said first channel member (20), said locking device (22) being releasable only from within said first channel member (see figures 10 and 11), and release means (48) for releasing said locking device (22) and accessible through an open end of said first channel member (see figure 13)', whereby said hollow first conduit section (21) can be disassembled only

by release of said locking device (22) by access through an open end of said conduit section (see figure 13).

Regarding claim 2, Marks discloses the apparatus further comprising a second channel member (20) and a second cover (42) which upon being joined together form a second hollow conduit section which may be abutted to an end of said first conduit section to form an elongated conduit (see figure 1) with locking together of said first channel member (21) and said first cover (42) also serves to lock together said second channel member (20) and said second cover (42), such that said elongated conduit can be disassembled only by release of said locking device by access through said open end of said elongated conduit (see figure 1).

Regarding claim 4, Marks discloses the apparatus further wherein said elongated conduit (21) comprises a plurality of said second conduit sections (20) with at least one said first conduit section (20), with interiors of all of said first and second conduit sections being accessible only through an end of said elongated conduit (see figure 1).

Regarding claim 5, Marks discloses the apparatus further comprising one said first conduit section (20) with said locking device (22) at or adjacent to each end of said elongated conduit (see figure 1), such that unlocking and disassembly of a first conduit section maybe accomplished from any end of said conduit (see figure 1).

Regarding claim 9, Marks discloses the apparatus (see figure 1) further comprising said plurality of said second sections being interspersed with at least one hollow routing section comprising a raceway and top cover, said routing section serving

to alter the linear direction of said elongated conduit or to divide said elongated conduit into a plurality of branches.

Regarding claim 10, Marks discloses the apparatus (see figure 1) wherein said signaling or transmission means comprises electrical or electronic cabling or wiring or fluid conveyance tubing (see title).

Regarding claim 11, Marks discloses the apparatus (see figure 1) wherein said cabling or wiring comprises wire or optical fiber cabling (see title).

Regarding claim 12, Marks discloses the apparatus (see figure 1) wherein said fluid conveyance tubing comprises gas or Liquid pneumatic or hydraulic Lines (see title).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sieckert et al (US 4,077,434), Jadaud et al (US 6,693,238), Guebre-Tsadik et al (US 6,216,746), Navazo (US 5,435,606), Hallman (US 3,338,599), Fisher (US 2,956,587), Auteri (US 6,143,984), Young et al (US 4,398,564) and Chapman (US 5,024,251) disclose an apparatus for secure routing lines.

6. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 3, 2005


Angel R. Estrada
Patent Examiner
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